

No. 12 3708

United States
Circuit Court of Appeals
For the Ninth Circuit.

In the Matter of the Application of ALBERT
SICHOFSKY, also known as ABRAM SICHOF-
SKY, for WRIT OF HABEAS CORPUS.

Transcript of Record.

**Upon Appeal from the United States District Court for
the Southern District of California,
Southern Division.**

FILED
JUN 28 1927
F. D. MORGENTHAU
CLERK

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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Names and Addresses of Attorneys.

For Petitioner and Appellant:

COOPER, COLLINGS & SHREVE, 708 Washington Building, Los Angeles, California.

For Respondents and Appellees:

ROBERT O'CONNOR, Esq., U. S. Attorney, Los Angeles, California.

IN THE DISTRICT COURT OF THE UNITED
STATES, IN AND FOR THE SOUTHERN
DISTRICT OF CALIFORNIA,
SOUTHERN DIVISION.

In the Matter of the Application)	
of ALBERT SICHOFSKY, also	)	CITATION ON
known as ABRAM SICHOFSKY,	)	APPEAL
for WRIT OF HABEAS)	
CORPUS;)	
)	

UNITED STATES OF AMERICA—SS.

THE PRESIDENT OF THE UNITED STATES,
to ROBERT O'CONNOR, Esq., United States
Attorney in and for the Southern District of Cali-
fornia, Greeting:

You are hereby cited and admonished to be and ap-
pear at the United States Circuit Court of Appeals,
for the Ninth Circuit, to be holden at the City of San
Francisco, in the State of California, within thirty
days from the date hereof, pursuant to an order allow-
ing an appeal of record in the clerk's office of the United
States District Court for the Southern District of Cali-
fornia, Southern Division, wherein Albert Sichofsky,
also known as Abram Sichofsky, is appellant and you
are appellee, to show cause, if any there be, why the
decree rendered against the said appellant, as in the said
order allowing appeal mentioned, should not be cor-
rected, and why speedy justice should not be done to
the parties in that behalf.

WITNESS the Hon. Benjamin F. Bledsoe, United States District Judge for the said District, this 2nd day of June, 1921.

Bledsoe,
United States District Judge.

[Endorsed]: No. 2991. IN THE DISTRICT COURT OF THE UNITED STATES, IN AND FOR THE SOUTHERN DISTRICT OF CALIF. SOUTHERN DIVISION IN THE MATTER OF THE APPLICATION OF ALBERT SICHOFISKY, ALSO KNOWN AS ABRAM SICHOFISKY, FOR WRIT OF HABEAS CORPUS CITATION ON APPEAL Recied copy of within—6-2/21 Robert O'Connor U. S. Atty F. COOPER, COLLINGS & SHREVE ATTORNEYS AND COUNSELORS FOR APPELLANT AND PETITIONER 708 WASHINGTON BLDG. LOS ANGELES, CAL. PHONE 60277 Filed Jun 2 1921 Chas. N. Williams, Clerk Douglas Van Dyke Deputy.

IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE SOUTHERN DISTRICT
OF CALIFORNIA, SOUTHERN
DIVISION

In the Matter of the Application of)	
ALBERTO SICHOFISKY, also)	
known as and called ABRAHAM	)	PETITION
SICHOFISKY,	)	FOR WRIT
for)	
Writ of Habeas Corpus.)	
)	

To the Honorable District Court of the United States, in and for the Southern District of California,

Southern Division, and to Benjamin F. Bledsoe or Oscar M. Trippet, judges thereof:

The petition of Alberto Sichofsky, also known as and called Abraham Sichofsky, respectfully shows the court that he, the said Alberto Sichofsky, also known as Abraham Sichofsky, is imprisoned, detained, confined and restrained of his liberty in the county jail of Los Angeles County, by the Marshall of the United States Government, and that said imprisonment, detention, restraint and confinement are illegal; and that the illegality thereof consists in this, to wit:

That heretofore, to wit, on or about the 22d day of May, 1918, there was passed by the Congress of the United States, a law entitled "An Act to prevent in time of war departure from or entry into the United States contrary to the public safety," which act specifically provides:

(Sec. 1) (United States—entry or departure—restrictions—offenses.) That when the United States is at war, if the President shall find that the public safety requires that restrictions and prohibitions in addition to those provided otherwise than by this Act be imposed upon the departure of persons from and their entry into the United States, and shall make public proclamation thereof, it shall, until otherwise ordered by the President or Congress, be unlawful—

(a) For any alien to depart from or enter or attempt to depart from or enter the United States

except under such reasonable rules, regulations, and orders, and subject to such limitations and exceptions as the President shall prescribe;

(b) For any person to transport or attempt to transport from or into the United States another person with knowledge or reasonable cause to believe that the departure or entry of such other person is forbidden by this Act;

(c) For any person knowingly to make any false statement in an application for permission to depart from or enter the United States with intent to induce or secure the granting of such permission either for himself or for another;

(d) For any person knowingly to furnish or attempt to furnish or assist in furnishing to another a permit or evidence of permission to depart or enter not issued and designed for such other person's use;

(e) For any person knowingly to use or attempt to use any permit or evidence of permission to depart or enter not issued and designed for his use;

(f) For any person to forge, counterfeit, mutilate, or alter, or cause or procure to be forged, counterfeited, mutilated, or altered, any permit or evidence of permission to depart from or enter the United States;

(g) For any person knowingly to use or attempt to use or furnish to another for use any false, forged, counterfeited, mutilated, or altered permit,

or evidence of permission, or any permit or evidence of permission which, though originally valid, has become or been made void or invalid. (--Stat. L.--)

Sec. 2 (Necessity of passport) That after such proclamation as is provided for by the preceding section has been made and published and while said proclamation is in force, it shall, except as otherwise provided by the President, and subject to such limitations and exceptions as the President may authorize and prescribe, be unlawful for any citizen of the United States to depart from or enter or attempt to depart from or enter the United States unless he bears a valid passport. (--Stat. L.--)

Sec. 3 (Punishment) That any person who shall wilfully violate any of the provisions of this Act, or of any order or proclamation of the President promulgated, or of any permit, rule, or regulation issued thereunder, shall, upon conviction, be fined not more than \$10,000 or, if a natural person, imprisoned for not more than twenty years, or both; and the officer, director, or agent of any corporation who knowingly participates in such violation shall be punished by like fine or imprisonment, or both; and any vehicle or any vessel, together with its or her appurtenances, equipment, tackle, apparel, and furniture, concerned in any such violation, shall be forfeited to the United States. (--Stat. L.--)

Sec. 4 (Definitions -- "United States"--"Person")
That the term "United States" as used in this Act includes the Canal Zone and all territory and waters, continental or insular, subject to the jurisdiction of the United States.

The word "person" as used herein shall be deemed to mean any individual, partnership, association, company, or other unincorporated body of individuals, or corporation, or body politic. (--Stat. L --)"

That thereafter and by virtue of said act, the proclamation was made. That at the time said proclamation was made the Government of the United States was at war with the Imperial German Government. That thereafter and on or about the 11th day of November, 1918, an armistice was signed between the United States Government and the Imperial German Government, and thereafter, with the consent and authority of the Senate of the United States, Woodrow Wilson, then President of the United States, and the person who had promulgated said proclamation, entered into peace negotiations with said Imperial German Government, That on or before the 1st day of July, 1920, the necessity for said act ceased, as said war was at an end. That in addition thereto, said Congress, as above set forth, on or about the 10th day of November, 1919, repealed said act above set forth by an act entitled "An Act to regulate further the entry of aliens into the United States", which act is as follows:

(Act of Nov. 10, 1919, Ch. 104, 41 Stat. L. 353.)
(Sec. 1.) (Entry of aliens -- regulations by President -- passports -- false statements -- forgery, etc.)

That if the President shall find that the public safety requires that restrictions and prohibitions in addition to those provided otherwise than by this Act be imposed upon the entry of aliens into the United States, and shall make public proclamation thereof, it shall, until otherwise ordered by the President or Congress, be unlawful--

(a) For any alien to enter or attempt to enter the United States except under such reasonable rules, regulations and orders, and subject to such passport, vise, or other limitations and exceptions as the President shall prescribe;

(b) For any person to transport or attempt to transport into the United States another person with knowledge or reasonable cause to believe that the entry of such other person is forbidden by this Act;

(c) For any person knowingly to make any false statement in an application for a passport or other permission to enter the United States with intent to induce or secure the granting of such permission, either for himself or for another;

(d) For any person knowingly to furnish or attempt to furnish or assist in furnishing to another a visseed passport or other permit or evidence of permission to enter, not issued and designed for such other person's use;

(e) For any person knowingly to use or attempt to use any visseed passport or other permit or evidence of permission to enter not issued and designated for his use;

(f) For any person to forge, counterfeit, mutilate, or alter, or cause or procure to be forged, counterfeited, mutilated, or altered, any passport, vise or other permit or evidence of permission to enter the United States;

(g) For any person knowingly to use or attempt to use or furnish to another for use any false, forged, counterfeited, mutilated, or altered passport, permit, or evidence of permission, or any passport, permit, or evidence of permission, which, though originally valid, has become or been made void or invalid. (41 Stat. L. 353)

Sec. 2 (Penalties and forfeitures) That any person who shall wilfully violate any of the provisions of this Act, or of any order or proclamation of the President promulgated, or of any permit, rule, or regulation issued thereunder, shall, upon conviction, be fined not more than \$5,000, or, if a natural person, imprisoned for not more than five years, or both; and the officer, director, or agent of any corporation who knowingly participates in such violation shall be punished by like fine or imprisonment, or both; and any vehicle or any vessel, together with its or her appurtenances, equipment, tackle, apparel, and furniture, concerned in any such violation, shall be forfeited to the United States. (41 Stat. L. 353)

Sec. 3. (Definitions -- "United States"--"person") That the term "United States" as used in this Act includes the Canal Zone and all territory and waters, continental or insular, subject to the jurisdiction of the United States.

The word "person" as used herein shall be deemed to mean any individual, partnership, association, company, or other unincorporated body of individuals, or corporation, or body politic. (41 Stat. L. 354)

Sec. 4. (Appropriation) That in order to carry out the purposes and provisions of this Act the sum of \$600,000 is hereby appropriated (41 Stat. L. 354)

Sec. 5. (Act when in effect.) That this Act shall take effect upon the date when the provisions of the Act of Congress approved the 22d day of May, 1918, entitled "An Act to prevent in time of war departure from and entry into the United States, contrary to the public safety," shall cease to be operative, and shall continue in force and effect until and including the 4th day of March, 1921. (41 Stat. L. 354)

which act repealed the act above specified. That regardless of such fact, and on or about the 1st day of October, 1920, an indictment was found in said Federal Court, charging petitioner herein with the violation of the Act of May 22, 1918, as set forth in said indictment, a copy of which is hereto attached, marked Exhibit A, incorporated in and made a part of this petition.

That thereafter at a stated term of the United States District Court for the Southern District of California, Southern Division, and on the 21st day of March, 1921, defendant entered a plea of guilty to the charge contained in the indictment, and was by said Court sentenced to be confined in the penitentiary at McNeill's Island, for the term of three (3) years, and in addition thereto was fined the sum of Fifteen Hundred (\$1500.00) Dollars. That thereupon a judgment was made by said Court, imposing said sentence above specified, which judgment was illegal void and beyond the jurisdiction of the Court. That thereafter a commitment was issued out of said Court, as shown by a copy of the Certificate of the Clerk hereto attached, marked Exhibit B, incorporated in and made a part of this petition, which commitment was illegal and void for the reasons above set forth; and which illegal commitment was placed in the hands of the United States Marshal. That thereafter, and while said commitment was in the hands of the United States Marshal, and while said Marshal was detaining the petitioner herein under and by virtue of said commitment, said Court made an illegal and unjust order concerning the custody of said petitioner, as shown by the copy of said order hereto attached, marked Exhibit C, incorporated in and made a part of this petition.

That after said order issued, said prisoner, your petitioner, was illegally transported to the County Jail of Los Angeles County by said Marshal, and by said Marshal, under said order, was turned over to the Sheriff of Los Angeles County, and while in the cus-

tody of the Sheriff of Los Angeles County, and against the objections, and over the protests of your petitioner, said petitioner was tried for the offense of grand larceny by the Superior Court of Los Angeles County, before Hon. Sidney N. Reeve, Judge thereof, and after being so tried, was convicted by said Court and sentenced to serve a term of Ten (10) years upon two (2) separate counts of grand larceny, which sentence and judgment were to run consecutively. That after the expiration of the fifteen (15) day period set forth in the order marked Exhibit C, above referred to, the United States District Court further illegally and unlawfully stayed execution, and execution is now being stayed. That as well, execution in the State Court is also now being stayed, and said defendant, your petitioner is now in the custody of the Sheriff of said Los Angeles County, having been remanded to said Sheriff by said Superior Court.

That from the judgment of conviction in said State Court above referred to, your petitioner has appealed to the District Court of the State of California, from said conviction, and under and by virtue of said appeal said defendant has certain rights. That from the facts above set forth your petitioner alleges that said judgment of said United States District Court was illegal for the reason that there was no law in existence at the time said judgment was pronounced. That if said law was in existence that the United States Federal Court lost jurisdiction of this defendant by indefinitely suspending sentence in said matter, and releasing said

defendant, your petitioner, to the jurisdiction of the State Court, and that for such reason that it should be declared by this Court that any pretended holding by said Marshal, or said Sheriff as the representative of said Marshal, under and by virtue of said judgment of conviction in the said United States Court, is illegal and void.

That no other petition for a writ of Habeas Corpus has been filed in this or any other Court for the facts herein stated.

WHEREFORE, your petitioner prays that a writ of Habeas Corpus be granted, directed to the United States Marshal for the Southern District of California, and the Sheriff of Los Angeles County, as the representative of said United States Marshal, commanding them to have the body of Alberto Sichofsky, also known as Abram Sichofsky, before said Court, at a time and place therein to be specified, to do and receive what shall then and there be considered by said Court, concerning said Alberto Sichofsky, together with the time and cause of his detention, and said writ; and that Alberto Sichofsky, also known and called Abram Sichofsky, be restored to his liberty.

Albert Shichofsky

Petitioner

By John S Cooper Atty

John S Cooper

Cooper, Collings & Shreve

Attorneys for petitioner

Dated: April 29, 1921

EXHIBIT "A"

No 1—

Filed—

Vio. Act. May 22, 1918, and Presidential Proclamation of August 6, 1918, Entering United States without a passport.

IN THE DISTRICT COURT OF THE UNITED
STATES IN AND FOR THE SOUTHERN
DISTRICT OF CALIFORNIA
SOUTHERN DIVISION.

At a stated term of said Court begun and holden at the city of Los Angeles, County of Los Angeles, within the Southern Division of the Southern District of California, on the second Monday of July, in the year of our Lord one thousand nine hundred and twenty;

The Grand Jurors of the United States of America, duly chosen, selected and sworn, within and for the division and district aforesaid, on their oath present:

That ABRAM SICHOFSKY, alias Alberto Sichofsky, alias Max Fimen, alias Carlos Nunn, whose full and true name is, other than as herein stated, to the Grand Jurors unknown, late of the Southern Division of the Southern District of California, heretofore, to-wit: on or about the twenty-third day of August, A. D. 1920, when the United States was at war with the Imperial German Government, at Tia Juana, County of San Diego, within the State and Southern Division of the Southern District of California, and within the jurisdiction of the United States and this Honorable Court, did knowingly, wilfully, unlawfully and felon-

iously enter, and attempt to enter, the United States from a foreign country, to-wit: The Republic of Mexico, without then and there bearing and having in his possession a passport duly visaed in accordance with the terms of Section 31 of an Executive Order dated August 8, 1918, issued pursuant to an Act of Congress approved May 22, 1918, entitled: "An Act to prevent, in time of war, departure from and entry into the United States, contrary to public safety", and supplemental to the Presidential Proclamation of August 8, 1918, the said ABRAM SICHOFISKY, alias Alberto Sichofsky, Alias Max Fimen, alias Carlos Nunn, being then and there a male citizen of Poland of the age of sixteen years and over;

Contrary to the form of the statute in such case made and provided against the peace and dignity of the said United States.

Robert O'Connor
United States Attorney.
Gordon Lawson.
Asst. U. S. Attorney.

EXHIBIT "B"

IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE SOUTHERN DISTRICT
OF CALIFORNIA, SOUTHERN
DIVISION.

---oOo---

UNITED STATES OF)	
AMERICA,)	
)	
)	
)	
Plaintiff,)	
- vs -	)	No. 2354—Crim.
)	
ALBERTO SICHOFSKY, etc.,)	
)	
Defendant.)	

---oOo---

I, CHAS. N. WILLIAMS, Clerk of the United States District Court for the Southern District of California, do hereby certify that in the above entitled case on the 21st day of March, A. D. 1921, the defendant, Alberto Sichofsky, charged as Abram Sichofsky, alias Alberto Sichofsky, alias Max Finnen, Alias Carlos Munn, entered a plea of Guilty as charged in the indictment and that on the 22nd day of March, 1921, the defendant was sentenced to be confined in the Federal Penitentiary at McNeil Island for a term of three (3) years and that, thereafter on said 22nd day of March, 1921, a final commitment was issued pursuant to said judgment and sentence and said commitment

was delivered to the United States Marshal to be executed by him.

San Diego, California, March 28, 1921.

CHAS. N. WILLIAMS

Clerk United States District Court,

For the Southern District of California

(S
E
A
L)

EXHIBIT "C"

IN THE DISTRICT COURT OF THE UNITED
STATES, IN AND FOR THE SOUTHERN
DISTRICT OF CALIFORNIA,
SOUTHERN DIVISION.

---o0o---

UNITED STATES OF AMERICA,)

Plaintiff.)

- vs -

ABRAM SICHOFSKY,)

Defendant.)

) O R D E R

---o0o---

WHEREAS, it appears to the satisfaction of this Court by the representation made in open court by Thomas Lee Woolwine through his deputy, A. H. Van Cott, the said Thomas Lee Woolwine and A. H. Van Cott being District Attorney and Deputy District Attorney in and for the County of Los Angeles, State of California, respectively, that the above named defend-

ant has been duly and regularly indicted by the Grand Jury of the County of Los Angeles, State of California, for the crimes of Grand Larceny and Embezzlement and said indictment has been returned by the said Grand Jury; that said defendant has been duly arraigned and entered a plea to said indictment and said cause is set for trial in Los Angeles County for this date, and good cause therefrom appearing to this Court,

IT IS HEREBY ORDERED that the execution of the sentence heretofore imposed on the above named defendant after conviction duly had in the above entitled cause be and hereby is stayed for the period of fifteen days.

IT IS FURTHER ORDERED that the United States Marshal take the above named defendant to the Hall of Justice, to the Court-room thereof, in the City of Los Angeles, County of Los Angeles, State of California at such times as his presence in the proceedings there pending against him under the said indictment in the Superior Court of the State of California, in and for the County of Los Angeles, shall be required. and the said Marshal is further ordered to take the said defendant, Abram Sichofsky, from the County Jail of the County of San Diego, to the County Jail of the County of Los Angeles, State of California, and to keep the said defendant in his custody for the purposes herein states, and at the expense of the county of Los Angeles, State of California, until the further order of this court.

Done in open Court this 29th day of March, A.D., 1921.

(Signed) Bledsoe
United States District Judge.

Endorsed.

No. 2354 Crim. In the District Court of the United States for the Southern District of California, Southern Division, United States of America, Plaintiff, vs. Abram Sichofsky, Defendant. Order. Filed March 29, 1921. Chas. N. Williams, Clerk.

I Chas. N. Williams, Clerk of the United States District Court for the Southern District of California, do hereby certify the foregoing to be a full, true and correct copy of an original order signed and filed on the 29th day of March, 1921, in the cause entitled United States of America, Plaintiff, vs. Abram Sichofsky, defendant. No. 2354 Crim. as the same remains on file and of record in my office.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal this 29th day of March, A. D. 1921.

CHAS. N. WILLIAMS

(S Clerk U. S. District Court,
E For the Southern District of California.

A

L)

UNITED STATES OF AMERICA)
STATE OF CALIFORNIA) SS
COUNTY OF LOS ANGELES)

Alberto Sichofsky, also known as Abram Sichofsky, being duly sworn, says that he is the petitioner named in the foregoing petition, that he has heard read the

said petition and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters which are therein stated on his information or belief, and as to those matters that he believes it to be true.

Alberto Sichofsky

SUBSCRIBED AND SWORN TO before me this 28 day of April, 1921

(Seal)

John S Cooper

Notary Public in and for the County of Los Angeles,
State of California

[Endorsed]: No. 2991 Cr. IN THE UNITED STATES DISTRICT COURT IN AND FOR THE SOUTHERN DISTRICT OF CALIFORNIA, SOUTHERN DIVISION In the matter of the application of Alberto Sichofsky, also known as Abram Sichofsky, for Writ of Habeas Corpus. Petition for Writ Filed Apr 29, 1921 Chas N. Williams, Clerk Douglas Van Dyke Deputy COOPER, COLLINGS & SHREVE ATTORNEYS AND COUNSELORS 708 WASHINGTON BLDG. LOS ANGELES, CAL. PHONE 60277 for petitioner

At a stated term, to wit: the January TERM, A. D. 1921, of the District Court of the United States of America, within and for the Southern Division of the Southern District of California, held at the court room thereof, in the City of Los Angeles, on Monday the 2nd day of May in the year of our Lord one thousand nine hundred and twenty one.

PRESENT:

The Honorable Oscar A. Trippet, District Judge.

United States of America,)	
Plaintiff,)	
vs.	)	No. 2991 Crim. S. D.
)	
Abram Sichofski, Defendant.)	

This cause coming on this day on a Petition for a Writ of Habeas Corpus; J. S. Cooper, Esq., appearing as counsel for the Petitioner; and good cause appearing therefor, it is hereby ordered that a Writ of Habeas Corpus issue directed to Wm. I. Traeger, Sheriff of Los Angeles County and C. T. Walton, U. S. Marshal for the Southern District of California, returnable on May 9, 1921, before Honorable Benjamin F. Bledsoe, United States District Judge.

IN THE UNITED STATES DISTRICT COURT IN
AND FOR THE SOUTHERN DISTRICT OF
CALIFORNIA SOUTHERN
DIVISION

In the Matter of the Application of)	
)	
Alberto Sichofsky, also known as)	
	)	WRIT
Abram, Sichofsky, for a Writ of)	
)	
Habeas Corpus)	

THE PEOPLE OF THE UNITED STATES OF AMERICA to C. T. Walton, United States Marshal, and William Traeger, Sheriff.

GREETING:

We command you, that you have the body of Alberto Sichofsky, also known and called Abram Sichofsky, by you imprisoned and detained, as it is said, together with the time and cause of such imprisonment and detention, by whatsoever name said Alberto Sichofsky shall be called or charged, before BENJAMIN F. BLEDSOE, Judge of the United States District Court in and for the Southern District of California, Southern Division, at the Court Room of said Court, in the City of Los Angeles, on the 9 day of May, 1921, at 2 o'clock in the afternoon of that day, to do and receive what shall then and there be considered concerning the said Alberto Sichofsky.

And have you then and there this writ.

Witness Hon. Oscar A. Trippet, judge of the said United States District Court, at the Court Room thereof, in the County of Los Angeles, this 2 day of May, 1921.

ATTEST, my hand and the seal of said Court, the day and year last above written.

(Seal)

CHAS. N. WILLIAMS,

Clerk

By R S Zimmerman, Deputy Clerk

[Endorsed]: No. 2991 Cr. IN THE UNITED STATES DISTRICT COURT IN AND FOR THE SOUTHERN DISTRICT OF CALIFORNIA, SOUTHERN DIVISION In the matter of the Petition of Alberto Sichofsky, also known as Abram Sichofsky, for WRIT OF HABEAS CORPUS

WRIT OF HABEAS CORPUS Filed May 9, 1921
Chas. N. Williams, Clerk By Wm U Handy Deputy
Clerk COOPER, COLLINGS & SHREVE ATTOR-
NEYS AND COUNSELORS 708 WASHINGTON
BLDG. LOS ANGELES, CAL. PHONE 60277

COUNTY OF LOS ANGELES) SS
STATE OF CALIFORNIA)

I, William I Traeger, Sheriff of the County of Los Angeles, State of California, do herein return that before the coming to me of the within writ, the said Albert Sichofsky was committed to my custody by United States Marshal Walton, who advised the District Attorney he could proceed against him in the Superior Courts for Grand Larceny committed in this County, he, the said Sichofsky, was tried in Department 17 of the Superior Court, found guilty 21st day of April 1921 on two counts, copies of the commitments are here attached.

WM I TRAEGER SHERIFF

BY Al. Manning

Deputy.

Copy

IN THE SUPERIOR COURT OF THE COUNTY
OF LOS ANGELES STATE OF
CALIFORNIA

Present: Hon. Sidney N Reeve Judge

THE PEOPLE OF THE STATE OF CALIFORNIA

vs.

Albert Sichofsky

No. 15868

The District Attorney, with the Defendant and his counsel, Messrs Cooper, Collings & Shreve came into

Court. The Defendant was duly informed by the Court of the nature of the indictment against him, for the crime of Grand Larceny, a felony committed on or about the 18th day of November 1920, of his arraignment and plea of "not guilty as charged in said Count 1 of Indictment," of his trial and the verdict of the jury, on the 13th day of April 1921 "Guilty Grand Larceny, as charged in the first count of the indictment The Defendant was then asked if he had any legal cause to show why judgment should not be pronounced against him. To which he replied that he had none. And no sufficient cause being shown or appearing to the Court, thereupon the Court rendered its Judgment: That whereas the said Albert Sichofsky, having been duly found Guilty in this Court of the crime of Grand Larceny

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED, that the said Albert Sichofsky be punished by imprisonment in the State Prison of the State of California at San Quentin, for the term prescribed by law

The Defendant was then remanded to the custody of the Sheriff of the County of Los Angeles, to be by him delivered into the custody of the Warden of said state Prison of the State of California at San Quentin.

Done in open Court this 21st day of April 1921

OFFICE OF THE COUNTY CLERK)
of the said County of Los Angeles)

I, L E Lampton, County Clerk, of the said County of Los Angeles, and ex-officio Clerk of the Superior

Court thereof, do hereby certify the foregoing to be a true and correct copy of the Judgment duly made and entered on the minutes of the Superior Court in the above entitled action, and that I have compared the same with the original and that the same is a correct transcript therefrom and of the whole thereof.

ATTEST my hand and the seal of the said Superior Court, this 21st day of April 1921., A. D.

L E Lampton Clerk

(Seal)

By E L Kinney Deputy Clerk

In the Superior Court of the State of California in and
for the County of Los Angeles

THE PEOPLE OF THE STATE OF)
CALIFORNIA)

vs.

) No 15868

Albert Sichofsky

Defendant

The people of the State of California, to the Sheriff of the said County of Los Angeles, and the Warden and Officers in charge of the State Prison of the State of California, at San Quentin, Greeting:

WHEREAS, the above named Defendant having been duly found guilty in the Superior Court in and for the said County of Los Angeles, of the crime of Grand Larceny and judgment having been pronounced against him that he be punished by imprisonment in the State Prison of the State of California at San Quentin for the term prescribed by law all of which appearing to us of record, and a certified copy of the Judgment being endorsed hereon and made a part hereof; now, this is to command you, the said Sheriff of the said

County of Los Angeles, to take and keep and safely deliver the said Defendant into the custody of the said Warden or other officer in charge of the State Prison of the State of California at San Quentin at your earliest convenience.

And this is to command you, the said Warden and other officers in charge of the State Prison of the State of California at San Quentin, to receive of and from the Sheriff of the said County of Los Angeles, the said Defendant convicted and sentenced as aforesaid, and he, the said Defendant, keep and imprison in the State Prison of the State of California at San Quentin, for the term prescribed

And these presents shall be authority for the same. Herein fail not.

WITNESS, Hon Sidney N Reeve Judge of the Superior Court of the said County of Los Angeles, this 21st day of April 1921

Attest my hand and the seal of said Court, the day and year last above written.

L E Lampton, Clerk

By E L Kinney Deputy Clerk

Copy

No 15868

SUPERIOR COURT
COUNTY OF LOS ANGELES

The People of the State of California

vs.

Albert Sichofsky

Defendant

Commitment to State Prison San Quentin

COPY

IN THE SUPERIOR COURT OF THE COUNTY
OF LOS ANGELES STATE OF
CALIFORNIA

Present: Hon Sidney N. Reeve Judge.

THE PEOPLE OF THE STATE OF)
CALIFORNIA) No 15868
vs.)
Albert Sichofsky

The District Attorney, with the Defendant and his counsel, Messrs Cooper, Collings & Shreve came into Court. The Defendant was duly informed by the Court of the nature of the indictment against him, for the crime of Grand Larceny a felony committed on or about the 18th day of November 1920, of his arraignment and plea of "not guilty as charged in said Count 3 of indictment" of his trial and the verdict of the jury, on the 13th day of April 191 , "Guilty of Grand larceny, as charged in the third count of the indictment The Defendant was then asked if he had any legal cause to show why judgment should not be pronounced against him. To which he replied that he had none. And no sufficient cause being shown or appearing to the Court, thereupon the Court rendered its Judgment: That whereas the said Albert Sichofsky, having been duly found Guilty in this Court of the crime of Grand Larceny

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED, that the said Albert Sichofsky be punished by imprisonment in the State Prison of the

State of California at San Quentin, for the term prescribed by law

The Defendant was then remanded to the custody of the Warden of the County of Los Angeles, to be by him delivered into the custody of the proper officers of said State Prison of the State of California at San Quentin.

Done in open Court this 21st day of April 1921

To run consecutively with judgment and sentence as entered in count 1, Case #15868

OFFICE OF THE COUNTY CLERK)
of the said County of Los Angeles)

I, L E Lampton, County Clerk of the said County of Los Angeles, and ex-officio Clerk of the Superior Court thereof, do hereby certify the foregoing to be a true and correct copy of the Judgment duly made and entered on the minutes of the Superior Court in the above entitled action, and that I have compared the same with the original, and that the same is a correct transcript therefrom and of the whole thereof.

ATTEST my hand and the seal of the said Superior Court, this 21st day of April 1921, A. D.

L E Lampton Clerk

(Seal)

By E L Kinney Deputy Clerk

In the Superior Court of the State of California in and
for the County of Los Angeles

THE PEOPLE OF THE STATE OF)
CALIFORNIA) No 15868
vs.)

Albert Sichofsky

Defendant

The people of the State of California, to the Sheriff of the said County of Los Angeles, and the Warden and Officers in charge of the State Prison of the State of California, at San Quentin, Greeting:

Whereas, the above named Defendant having duly been found guilty in the Superior Court in and for the said County of Los Angeles, of the crime of Grand Larceny, a felony and judgment having been pronounced against him that he be punished by imprisonment in the State Prison of the State of California at San Quentin for the term prescribed by law all of which appearing to us of record, and a certified copy of the Judgment being endorsed hereon and made a part hereof; now, this is to command you, the said Sheriff of the said County of Los Angeles, to take and keep and safely deliver the said Defendant into the custody of the said Warden or other officer in charge of the State Prison of the State of California at San Quentin at your earliest convenience.

And this is to command you, the said Warden and other officers in charge of the State Prison of the State of California at San Quentin, to receive of and from the Sheriff of the said County of Los Angeles, the said Defendant convicted and sentenced as aforesaid, and he, the said Defendant, keep and imprison in the State Prison of the State of California at San Quentin, for the term prescribed by law

And these presents shall be authority for the same. Herein fail not.

WITNESS, Hon Sidney N Reeve Judge of the Superior Court of the said County of Los Angeles, this 21st day of April 1921

ATTEST my hand and the seal of said Court, the day and year last above written.

L E Lampton Clerk.

By E L Kinney Deputy Clerk

No. 15868

SUPERIOR COURT
COUNTY OF LOS ANGELES

The People of the State of California

vs.

Albert Sichofsky

Defendant

Commitment to State Prison San Quentin

IN THE DISTRICT COURT OF THE UNITED
STATES IN AND FOR THE SOUTHERN
DISTRICT OF CALIFORNIA,
SOUTHERN DIVISION.

In the Matter of the)	
)	
Application of Abram Sichofsky,	)	2991 Crim.
)	
for Writ of Habeas Corpus.)	
)	

: : : : : : : : : : : :

J. Robert O'Connor, Esq., United States Attorney
and Thos. F. Green, Asst. United States Attorney for
the Government.

Messrs. Cooper, Collings & Shreve of Los Angeles, Cal., for the Petitioner.

Bledsoe, District Judge: -- The contentions advanced by petitioner herein as a reason why he should be discharged from his present custody, maintained by the United States Marshal in virtue of a commitment heretofore issued out of this court following his plea of guilty as for a violation of law of the United States, may be briefly stated and determined.

The indictment to which petitioner pleaded guilty charged him, a citizen of Poland, with having, on or about the twenty-third day of August, 1920, entered and attempted to enter the United States from the Republic of Mexico, "without then and there bearing and having in his possession a passport duly visaed in accordance with the terms of Sec. 31 of an Executive Order dated August 8, 1918 issued pursuant to an Act of Congress approved May 22, 1918", etc. (40 Stat. L. 559).

There is no specific averment upon the subject, but in the absence thereof and in view of the fact that he was tried and found guilty before the Superior Court of the County of Los Angeles of the crime of grand larceny, committed in the County of Los Angeles "on or about the eighteenth day of November, 1920" it must be assumed that he did in fact *enter* the United States, and that the crime committed by him was not merely that of "an attempt to enter".

After this court, on March 22, 1921, had pronounced judgment upon petitioner, by sentencing him to three

years imprisonment in the Federal penitentiary, and to pay a fine in the sum of \$1500.00, upon application made by the District Attorney of Los Angeles County because of an indictment pending in the Superior Court of that County, an order was made by this court on March 29, 1921, staying the execution of the sentence adjudged herein for the period of fifteen days; and it was further ordered that "the United States Marshal take the above named defendant to the Hall of Justice, to the Court Room thereof, in the City of Los Angeles, County of Los Angeles, State of California, at such times as his presence in the proceedings there pending against him under said indictment in the Superior Court of the State of California in and for said county of Los Angeles shall be required". It was further required in said order that the Marshal "keep the said defendant in his custody for the purposes herein stated". Pursuant to such order, and presumably in complete accordance therewith, the petitioner was taken to the Superior Court of Los Angeles County, there suffered trial, was regularly convicted and sentenced, etc. Since the first order staying execution, pending the hearing and determination of this writ, etc., upon the application or with the consent of petitioner, further stays have been granted and he is now in consequence thereof, still in the custody of the United States Marshal in the County Jail in Los Angeles.

The first claim advanced is that there is no law justifying the indictment or subsequent proceedings had against petitioner in this court. This is based upon

three propositions; first, that the Act of May 22, 1918, hereinabove referred to, was by its terms limited to the period "when the United States is at war", and that in all substantial aspects of the case, the war having ceased and determined, the statute became inoperative and ineffective for any purpose before petitioner came into this country. The second contention is that the statute was repealed by implication in virtue of the Act of November 10, 1919, (41 Stat. L. 353.) purporting to enact a new law upon the identical subject matter and which new law, by its own terms, was to continue in force and effect only "until and including the fourth day of March, 1921", a point of time anterior to the plea of guilty and pronouncement of judgment on petitioner herein. The third contention is that the Act was expressly repealed by the joint resolution of Congress, adopted March 3, 1921, (Sec. 3115 - 14f - Comp. Stats.) repealing certain designated "War Time Acts."

I think it clear, that this court may not now say that the war has ended, even within the meaning of that phrase as used in the statute of May 22, 1918. It is common knowledge, of course, that no treaty of peace has been ratified by this government, that no repeal of the declaration of war has been had, and that, subject only to the terms of an Armistice, American troops are still on foreign soil. In such event, as I understand the law, there is no formal state of peace. *United States v. Anderson*, 9 Wall. 56; *Hijo v. United States*, 194 U. S. 315. Neither may the court say, in my judgment, that substantially and operatively we

are at peace and that therefore the validity possessed by the statute during war time has failed and that the reason for its original enactment has ceased. Conceding, under the decision of *Hamilton v. Kentucky Distilleries Co.*, 251 U. S. 146, that the court might hold a statute inoperative on the theory that, the reason for the statute having ceased the statute itself would cease, nevertheless, I cannot accept the minor premise of the syllogism necessary to be entertained. The reason has not yet ceased. We have as yet no peace with Germany. Our troops are yet upon her soil. The court may not say, with the completeness and satisfaction that seems to be required, that there is no longer necessity for a watchfulness of the entry of immigrants across our border. Until the court may say that, it must hold that the wisdom of Congress, made manifest by the statute, must control and limit the rule of individual conduct. We do not have here the "clear case" which must exist before the court may thus hold a law of the United States inoperative. *Hamilton v. Kentucky Distilleries Co.*, *supra*.

The joint resolution repealing the War Time Acts, herein above referred to, itself constitutes a determination on the part of Congress that, for purposes of construction of relevant statutes, the war "terminated on the date" when that resolution became "effective", to-wit, March 3, 1921. The Act of November 10, 1919, by its own terms was to become effective only upon the date when the Act of May 22, 1918, "shall cease to be operative". The last mentioned Act has ceased

to be operative, not in virtue of a return to peace, but only in virtue of the provisions of the aforesaid Joint Resolution of March 3, 1921. Therefore, the Act of November 10, 1919, had not yet become effective when petitioner entered this country. His action being in violation of the Act of May 22, 1918, may even now be punished in virtue of the saving clause affixed to the Joint Resolution repealing that Act.

This joint resolution enacted in the last days of the 66th Congress repealing certain war time acts, carried with it a saving clause to the effect that nothing therein contained should be held "to exempt from prosecution or to relieve from punishment" any offense theretofore committed in violation of the acts therein repealed or referred to, etc. In view of the express and positive provisions of Sec. 13 of the Revised Statutes, this saving clause was hardly necessary. *U. S. v. Reisinger*, 128 U. S. 398. Its insertion, however, makes it clear and indubitable that Congress was intending to make punishment possible for those who had violated the law previous to its repeal.

That it should be given effect in this wise is too plain for argument or extended discussion. Counsel make the point, however, that though by the terms of the saving clause the act itself was kept in force and effect, yet nothing in the saving clause served to keep in force and effect the proclamations or regulations of the President issued under and pursuant to the act, and that in consequence, the offense charged herein being in violation of a regulation or proclamation issued

by the President in conformity to the requirements of the act, the saving clause did not operate as a preventive of total and unqualified repeal. There is more of form in this contention, however, than of substance. The Act of May 22, 1918, provides definitely and specifically "that when the United States is at war, if the President shall find that the public safety requires that restrictions and prohibitions in addition to those provided otherwise than by this Act be imposed upon the departure of persons from and their entry into the United States, and shall make public proclamation thereof, it shall, until otherwise ordered by the President or Congress, be unlawful –

"(a) For any alien to depart from or enter or attempt to depart from or enter the United States except under such reasonable rules, regulations, and orders, and subject to such limitations and exceptions as the President shall prescribe".

It is obvious then that Congress was intending to declare that in virtue of the exigencies brought about by the war, as long as the President deemed it necessary and should make proclamation thereof, it should be unlawful to enter the country except in virtue of the regulations to be established by him. No entry at all could be lawful, as long as the condition of danger attached, to be determined by the President, except in compliance with his instructions and regulations. This was followed (Sec. 3) by the provision that any person who should willfully "violate any of the provisions of this Act or of any order or proclamation of the Presi-

dent promulgated, or of any permit, rule, or regulation issued thereunder" should upon conviction be punished, etc.

Petitioner's argument, in effect, with respect to pending prosecutions, is that though there was no repeal of the law, because of the saving clause, yet there was a repeal of the Presidential proclamations and regulations because they were not specifically mentioned in and covered by the saving clause. The law possessed no efficacy, however, except as the proclamation or regulations duly promulgated by the President gave it efficacy, and to hold, with respect to prosecutions already begun or violations already had, that the law remained but that the proclamation and regulations were repealed, would be to retain the shadow and disregard the substance; to keep the incident and destroy the principal. Such cannot be the construction to be accorded to the action taken. The violation charged herein, and for which petitioner must stand for judgment, was not of a proclamation of the President or regulations promulgated by him, but a violation of a law which said that no entry might be had save under enumerated circumstances. In this wise it is clear that any saving clause which applied to the law itself, would suffice to support and justify any prosecution had and maintained under the law.

I conclude then that ample authority existed for the rendering of the indictment herein and that the court had jurisdiction, in virtue of petitioner's plea of guilty, to pronounce the judgment under which he is held.

It is asserted, however, that the court lost all of its jurisdiction thus acquired in virtue of the order made permitting the petitioner, all the while in custody of the United States Marshal, to be tried in the State court as for the crime of grand larceny. It may be true, yet this court having no concern with the matter does not express any opinion thereon, that in view of the jurisdiction of this court attaching to the person of the defendant in the behalf and respects hereinabove enumerated and referred to, the Superior Court of the State of California could and did acquire no jurisdiction to try him, at the time it did, as for an asserted violation of the law of the State of California. If that be so and if that court lacked jurisdiction, it will be so determined in appropriate tribunals. I discover nothing, however, based either upon reason or authority, from which it may now be adjudged that the action of this court in temporarily staying the execution of the judgment of this court, served to divest this court of jurisdiction to require petitioner to stand for judgment as for the admitted violation of the Federal law. It would be a strange and bold assertion, in my judgment, for this court, possessing the amplest jurisdiction as above referred to, to hold that it had completely divested itself of all jurisdiction in the premises merely by an order staying execution. I see nothing in the decision relied upon by petitioner (*In re Jennings*, 118 Fed. 479) requiring such conclusion.

It is obvious, of course, that as against the protest of the petitioner, which protest must be considered as

having been impliedly made, the court could not, by granting a stay of execution, add to the length of time that he should be deprived of his liberty. In that behalf, I am persuaded that petitioner is entitled to have subtracted from the total period of incarceration adjudged against him, the length of time elapsed since the rendering of the judgment herein. In re Jennings, *supra*.

The order of the court therefore will be that the writ of habeas corpus herein is discharged and the prisoner is remanded to the custody of the United States Marshal to abide the judgment of this court heretofore delivered herein. The commitment eventuating from that judgment, being a process emanating from this very court and being still within the control of this court, should now be recalled and amended to conform to the opinion and judgment rendered necessary herein. An order will be entered therefore, recalling the commitment and decreeing its amendment to the effect that the term of imprisonment heretofore adjudged upon petitioner will begin to run as from the date of pronouncement of the aforementioned judgment herein May 31, 1921.

[Endorsed]: No 2991 Crim. United States District Court Southern District of California Southern Division United States of America vs. Abram Sichofsky Opinion of Court Filed May 31, 1921 By Chas. N. Williams, Clerk Wm. U. Handy, deputy

IN THE DISTRICT COURT OF THE UNITED
STATES, IN AND FOR THE SOUTHERN
DISTRICT OF CALIFORNIA,
SOUTHERN DIVISION.

In the Matter of the Application)	
of ALBERT SICHOFSKY, also	)	PETITION
known as ABRAM SICHOFSKY,	)	FOR APPEAL.
for WRIT OF HABEAS)	
CORPUS.)	
)	

Comes now Albert Sichofsky, also known as Abram Sichofsky, the petitioner above named, and the appellant herein, and says:

That on the 31st day of May the above court made and entered its order and decree denying the petition for a writ of habeas corpus, as prayed for, in which said order and decree in said entitled cause certain errors were made as to the prejudice of the appellant herein, all of which will more fully appear from the assignment of errors filed herewith.

WHEREFORE, petitioner prays that an appeal may be granted in his behalf to the Circuit Court of Appeals of the United States, for the Ninth Circuit thereof, for the correction of the errors so complained of, and further that a transcript of the record, proceedings and papers in the above-entitled cause, as shown by the praecipe, duly authenticated, may be sent and transmitted to the said United States Circuit Court of Appeals, for the Ninth Circuit thereof.

Dated at Los Angeles, California, May 31, 1921.

John S Cooper

Attorneys for Petitioner and Appellant herein.

[Endorsed]: No. 2991 Crim IN THE DISTRICT COURT OF THE UNITED STATES, IN AND FOR THE SOUTHERN DISTRICT OF CALIFORNIA, SOUTHERN DIVISION In the Matter of the Application of ALBERT SICHOFISKY, also known as ABRAM SICHOFISKY, for WRIT OF HABEAS CORPUS. PETITION FOR APPEAL Received copy of the — 6 - 1/21 Robert O'Connor U. S. Attorney F. Filed Jun 1 1921 Chas N. Williams, Clerk By R S Zimmerman Deputy Clerk. COOPER, COLLINGS & SHREVE ATTORNEYS AND COUNSELORS 708 WASHINGTON BLDG. LOS ANGELES, CAL. PHONE 60277

IN THE DISTRICT COURT OF THE UNITED STATES, IN AND FOR THE SOUTHERN DISTRICT OF CALIFORNIA, SOUTHERN DIVISION.

In the Matter of the Application	)	ORDER
of ALBERT SICHOFISKY, also	)	ALLOWING
known as ABRAM SICHOFISKY,	)	PETITION
for WRIT OF HABEAS	)	FOR APPEAL
CORPUS.)	
)	

On this the 1st day of June, 1921, came Albert Sichofsky, also known as Abram Sichofsky, by his attorneys, Cooper, Collings & Shreve, and having previously filed same herein, did present to this court his

petition praying for the allowance of an appeal to the United States Circuit Court of Appeals for the Ninth Circuit, intended to be urged and prosecuted by him, and praying also that a transcript of the record and proceedings and papers upon which the judgment herein was rendered, duly authenticated, may be sent and transmitted to the United States Circuit Court of Appeals for the Ninth Circuit, and that such other and further proceedings may be had in the premises as may seem proper;

NOW, THEREFORE, on consideration thereof, this Court hereby allows the appeal hereby prayed for, and orders execution and remand stayed pending the hearing of the said cause in the said United States Circuit Court of Appeals for the Ninth Circuit. And further said Court does certify that no evidence was taken upon said hearing. That all the papers used upon said hearing were a petition for the writ, the return of the writ; and a Consideration by the Court of the papers in *U. S. v. Sichofsky* referred to in the opinion filed herein, and the opinion of said Court which opinion is requested in said Praecipe. Appellant to give bond in sum of \$250.

Dated at Los Angeles, California, June 1st, 1921.

Bledsoe

Judge

U. S. District Court.

[Endorsed]: *No. 2991* IN THE DISTRICT COURT OF THE UNITED STATES, IN AND FOR THE SOUTHERN DISTRICT OF CALIFORNIA, SOUTHERN DIVISION In the Matter of the

Application of ALBERT SICHOFISKY, also known as ABRAM SICHOFISKY for WRIT OF HABEAS CORPUS ORDER ALLOWING PETITION FOR APPEAL Orig rec'd 6 - 1/21 Robert O'Connor U. S. Attorney F. Filed Jun 2 1921 Chas. N. Williams, Clerk By Wm U Handy Deputy Clerk. COOPER, COLLINGS & SHREVE ATTORNEYS AND COUNSELORS 708 WASHINGTON BLDG. LOS ANGELES, CAL. PHONE 60277

IN THE DISTRICT COURT OF THE UNITED
STATES, IN AND FOR THE SOUTHERN
DISTRICT OF CALIFORNIA,
SOUTHERN DIVISION.

	) No.
In the Matter of the Application)	
of ALBERT SICHOFISKY, also)	NOTICE OF
known as ABRAM SICHOFISKY,)	APPEAL
for WRIT OF HABEAS)	
CORPUS.)	
)	

To the Clerk of the Above-entitled Court, and to the Hon. Robt. O'Connor, United States District Attorney in and for the Southern District of California, and to said Court and the Hon. Benjamin F. Bledsoe, Judge thereof:

You and each of you will please take notice that Albert Sichofsky, also known as Abram Sichofsky, does hereby appeal to the Circuit Court of Appeals of the United States, for the Ninth Circuit thereof, from an order and decree made and entered herein on the 31st day of May, 1921, discharging the writ and dis-

missing the petition for writ of Habeas Corpus filed herein.

Dated at Los Angeles, California, this 31st day of May, 1921.

Cooper, Collings & Shreve

Attorneys for Petitioner and Appellant Herein.

[Endorsed]: No. 2991 Crim IN THE DISTRICT COURT OF THE UNITED STATES, IN AND FOR THE SOUTHERN DISTRICT OF CALIFORNIA, SOUTHERN DIVISION. In the Matter of the Application of ALBERT SICHOFSKY, also known as ABRAM SICHOFSKY, for WRIT OF HABEAS CORPUS NOTICE OF APPEAL Orig. Rec'd 6 - 1 - 21 Robert O Connor U. S. Atty. F. Filed Jun 1 1921 Chas. N. Williams, Clerk By R S Zimmerman Deputy Clerk COOPER, COLLINS & SHREVE ATTORNEYS AND COUNSELORS 708 WASHINGTON BLDG. LOS ANGELES, CAL. PHONE 60277

IN THE DISTRICT COURT OF THE UNITED STATES, IN AND FOR THE SOUTHERN DISTRICT OF CALIFORNIA, SOUTHERN DIVISION.

In the Matter of the Application)	
of ALBERT SICHOFSKY, also)	
known as ABRAM SICHOFSKY,	)	ASSIGNMENTS
for WRIT OF HABEAS	)	OF ERROR
CORPUS.)	
)	

Now comes the petitioner and appellant in the above-entitled action, and makes the following assignments

of error which he avers occurred in denying the petition for the writ of habeas corpus herein and dismissing same.

FIRST

The Court erred in denying the petition for the writ of habeas corpus herein and in dismissing petitioner's petition; for the reason

(a) That the indictment does not charge any public offense.

(b) That said indictment does not charge any public offense for the reason that there was no law in existence at the time of the alleged indictment upon which petitioner could be charged with the offense alleged in the said indictment.

(c) That the Court erred in holding that the Court had not lost jurisdiction of the defendant in submitting defendant to the jurisdiction of the State Court.

(d) That the Court erred in not determining the status of the defendant concerning the conflict of judgments under which he stands sentenced.

(e) The Court erred in holding as a matter of law that under the petition and writ thereof there was proper or sufficient cause to remand the petitioner to the custody of the Marshall.

Respectfully submitted,

Cooper, Collings & Shreve

Attorneys for petitioner

[Endorsed]: No. 2991 IN THE DISTRICT
COURT OF THE UNITED STATES, IN AND

FOR THE SOUTHERN DISTRICT OF CALIFORNIA SOUTHERN DIVISION In the Matter of the Application of ALBERT SICHOFSKY, also known as ABRAM SICHOFSKY, for WRIT OF HABEAS CORPUS ASSIGNMENTS OF ERROR Filed Jun 1 1921 Chas. N. Williams, Clerk Douglas Van Dyke Deputy COOPER, COLLINGS & SHREVE Attorneys and counselors 708 Washington Bldg. Los Angeles, Cal. Phone 60277 Petitioner and appellant

IN THE DISTRICT COURT OF THE UNITED STATES, IN AND FOR THE SOUTHERN DISTRICT OF CALIFORNIA,
SOUTHERN DIVISION

In the Matter of the Application)	
of ALBERT SICHOFSKY, also	)	BOND ON
known as ABRAM SICHOFSKY,	)	APPEAL
for WRIT OF HABEAS)	
CORPUS.)	
)	

KNOW ALL MEN BY THESE PRESENTS:

That we, Albert Sichofsky, also known as Abram Sichofsky, as principal and Abe Preluzsky and H. H. Appel, Jr. as sureties, are held and firmly bound unto the United States of America in the full and just sum of Two Hundred Fifty (\$250.00) Dollars, to be paid to the said United States of America, to which payment well and truly to be made we bind ourselves,

our heirs, executors and administrators jointly and severally, by these presents.

Sealed with our seals and dated this 2nd day of June, in the year of our Lord One Thousand Nine Hundred and Twenty-One.

WHEREAS, lately at the May term, A. D. 1921 of the District Court of the United States, in and for the Southern District of California, Southern Division, in a suit depending in said Court on application of Albert Sichofsky, also known as Abram Sichofsky, for a writ of Habeas Corpus, an order and decree was entered on the 31st day of May, 1921, discharging the writ and dismissing the petition for writ of habeas corpus filed therein, and the said Albert Sichofsky, also known as Abram Sichofsky, has obtained an order allowing an appeal by the said Albert Sichofsky, and a citation directed to the said United States of America, citing and admonishing the United States of America to be and appear in the United States Circuit Court of Appeals, for the Ninth Circuit, in the City of San Francisco, in the State of California, within thirty (30) days from and after the date of said citation, which citation has been duly served;

Now the condition of the above obligation is such that should any costs be adjudged against said Albert Sichofsky, also known as Abram Sichofsky, in said appeal, he and the sureties above named will pay to the United States of America such costs as may be adjudged against said Albert Sichofsky, in said matter,

not to exceed the sum of Two Hundred Fifty (\$250.00) Dollars.

(SEAL) Alberto Sichofsky

(SEAL) Abe Preluzsky

(SEAL) H. H. Appel, Jr.

Approved:

Bledsoe

Judge of the District Court of the United States,
Southern district of California, Southern Division.

SOUTHERN DISTRICT OF CALIFORNIA, SS

Abe Preluzsky and H. H. Appel, Jr., being duly sworn, each for himself deposes and says that he is a householder in said District, and is worth the sum of Five Hundred (\$500.00) Dollars, exclusive of property exempt from execution, and over and above all debts and liabilities.

Abe Preluzsky

H. H. Appel, Jr

Subscribed and sworn to before me, this 2nd day of June, A. D. 1921.

Lewis D. Collings

Notary Public in and for the County of Los Angeles,
State of California.

The form of the foregoing Bond and the sufficiency of the sureties thereto is hereby approved.

Cooper Collings & Shreve

by John Cooper

(Seal)

Attorney for Appellant

[Endorsed]: No. 2991 IN THE DISTRICT COURT OF THE UNITED STATES, IN AND FOR THE SOUTHERN DISTRICT OF CALIF. SOUTHERN DIVISION In the Matter of the Application of Albert Sichofsky, also known as Abram Sichofsky, for WRIT OF HABEAS CORPUS. BOND ON APPEAL Filed Jun 2 1921 Chas. N. Williams, Clerk Douglas Van Dyke, Deputy COOPER, COLLINGS & SHREVE ATTORNEYS AND COUNSELORS 708 Washington Bldg. Los Angeles, Cal. Phone 60277 for petitioner and appellant

IN THE DISTRICT COURT OF THE UNITED STATES, IN AND FOR THE SOUTHERN DISTRICT OF CALIFORNIA,
SOUTHERN DIVISION

In the Matter of the Application	)	PRAECIPE
of ALBERT SICHOFSKY, also	)	(FOR
known as ABRAM SICHOFSKY,	)	TRANSCRIPT
for WRIT OF HABEAS	)	OF RECORD)
CORPUS.)	
)	

TO CHARLES N. WILLIAMS, Clerk of the District Court of the United States, Southern District of California, Southern Division:

SIR:

Please make up transcript of appeal in the above-entitled case to be composed of the following papers:

1. Citation on appeal.
2. Petition for Writ of habeas corpus and all exhibits used or filed in connection therewith.

3. Order for writ of habeas corpus.
4. Writ of habeas corpus and return thereon.
5. Decision of the Court.
6. Petition for appeal.
7. Order allowing appeal.
8. Notice of appeal.
9. Assignment of errors.
10. Bond on appeal.
11. Praecipe.
12. Certificate of Clerk.

Dated June 8, 1921.

Cooper Collings & Shreve,
Attorneys for Petitioner and Appellant

[Endorsed]: No. 2991 IN THE DISTRICT COURT OF THE UNITED STATES, IN AND FOR THE SOUTHERN DISTRICT OF CALIFORNIA, SOUTHERN DIVISION IN THE MATTER OF THE APPLICATION OF ALBERT SICHOFSKY, also KNOWN AS ABRAM SICHOFSKY, for WRIT OF HABEAS CORPUS AMENDED PRAECIPE (for transcript of record)
Received copy this 8th day of June 1921 Robert O'Connor U. S. Atty T. F. Green Asst U. S. Atty Filed Jun 8 1921 Chas. N. Williams, Clerk Douglas Van Dyke Deputy COOPER, COLLINGS & SHREVE ATTORNEYS AND COUNSELORS 708 WASHINGTON BLDG. LOS ANGELES, CAL. PHONE 60277

IN THE DISTRICT COURT OF THE UNITED
STATES, SOUTHERN DISTRICT OF
CALIFORNIA, SOUTHERN
DIVISION.

In the Matter of the Application)
of ALBERT SICHOFSKY, also)
known as ABRAM SICHOFSKY,)
for WRIT OF HABEAS COR-)
PUS.)

I, CHAS. N. WILLIAMS, Clerk of the United States District Court for the Southern District of California, do hereby certify the foregoing volume containing 50 pages, numbered from 1 to 50 inclusive, to be the Transcript of Record on Appeal in the above entitled cause, as printed by Appellant and presented to me for comparison and certification, and that the same has been compared and corrected by me and contains a full, true and correct copy of the Citation on Appeal, Petition for Writ of Habeas Corpus and all exhibits used or filed in connection therewith, Order for Writ of Habeas Corpus, Writ of Habeas Corpus and return thereon, Decision of the Court, Petition for Appeal, Order Allowing Appeal, Notice of Appeal, Assignment of Errors, Bond on Appeal and Praecipe.

I DO FURTHER CERTIFY that the fees of the Clerk for comparing, correcting and certifying the foregoing Record on Appeal amount to , and that said amount has been paid me by the Appellant herein.

IN TESTIMONY WHEREOF, I have hereunto
set my hand and affixed the Seal of the Dis-
trict Court of the United States of America,
in and for the Southern District of Cali-
fornia, Southern Division, this day
of , in the year of our Lord
One Thousand Nine Hundred and Twenty-
one, and of our Independence the One Hun-
dred and Forty-fifth.

CHAS. N. WILLIAMS,
Clerk of the District Court of the
United States of America, in and
for the Southern District of Cali-
fornia.

By

Deputy.